IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 48 OF 2006

IN

NOTICE OF MOTION NO. 48 OF 1996

IN

SUIT NO. 4461 OF 1996

Narendra Dankomal .. Petitioner

(Org. Plaintiff)

Vs.

Jay Vijay Co-op. Housing Society Ltd.

& Ors. ... Respondents

Contemnors./org.Applicants

And

The Court Receiver,

High Court, Bombay & Anr. Respondents

(org. defendants)

Ms. Armin Wandrewala with Rajesh Mishtra i/b.Archana Khan for the petitioner.

Mr. A.N.Nesarikar for Respondents 1 to 6.

CORAM: S.K.SHAH,J.

DATE : 6th October, 2006.

P.C.

1. The contempt is alleged of the order whereby the interim relief was granted in terms of prayer clause (a). The effect was that the shed in which the

defendant was a tenant was agreed to be mortgaged to the petitioner and in respect thereof the Receiver was appointed who was directed to take formal possession of the property.

2. There is an eviction decree against the defendant to whom the same property was let out. In execution of the decree, with consent of this Court, possession of the premises was taken and as a result the board of the Receiver was removed.

3. It appears that before this Court, on 1.9.2005, a statement was made by the Respondents that they do not make an application for execution of the decree against the Court Receiver. Obviously, the Court Receiver was not a party in the proceedings before the Court of Small Causes. Even then, when it came to the knowledge of the Respondents that Receiver has been appointed in respect of the suit property, an application was made before this Court and leave for execution was obtained from this Court. It is in execution, the possession of the premises was taken. The Receiver was not in actual possession of the property, but he was in formal possession. At any rate, the possession is obtained through bailiff with leave of this Court, there is no question of contempt having been committed.

4. I do not find any merit in the Contempt Petition. The Contempt Petition stands disposed of.

(S.K.SHAH,J.)